

61-2g-101. Title.

This chapter is known as the "Real Estate Appraiser Licensing and Certification Act."

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-102. Definitions.

(1) As used in this chapter:

(a) (i) "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of a specified interest in, or aspect of, identified real estate or identified real property.

(ii) An appraisal is classified by the nature of the assignment as a valuation appraisal, an analysis assignment, or a review assignment in accordance with the following definitions:

(A) "Analysis assignment" means an unbiased analysis, opinion, or conclusion that relates to the nature, quality, or utility of identified real estate or identified real property.

(B) "Review assignment" means an unbiased analysis, opinion, or conclusion that forms an opinion as to the adequacy and appropriateness of a valuation appraisal or an analysis assignment.

(C) "Valuation appraisal" means an unbiased analysis, opinion, or conclusion that estimates the value of an identified parcel of real estate or identified real property at a particular point in time.

(b) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(c) (i) "Appraisal report" means a communication, written or oral, of an appraisal.

(ii) An appraisal report is classified by the nature of the assignment as a valuation report, analysis report, or review report in accordance with the definitions provided in Subsection (1)(a)(ii).

(iii) The testimony of a person relating to the person's analyses, conclusions, or opinions concerning identified real estate or identified real property is considered to be an oral appraisal report.

(d) "Appraisal Qualification Board" means the Appraisal Qualification Board of the Appraisal Foundation.

(e) "Board" means the Real Estate Appraiser Licensing and Certification Board that is established in Section 61-2g-204.

(f) "Certified appraisal report" means a written or oral appraisal report that is certified by a state-certified general appraiser or state-certified residential appraiser.

(g) "Concurrence" means that the entities that are given a concurring role jointly agree to an action.

(h) (i) (A) "Consultation service" means an engagement to provide a real estate valuation service analysis, opinion, conclusion, or other service that does not fall within the definition of appraisal.

(B) "Consultation service" does not mean a valuation appraisal, analysis assignment, or review assignment.

(ii) Regardless of the intention of the client or employer, if a person prepares an

unbiased analysis, opinion, or conclusion, the analysis, opinion, or conclusion is considered to be an appraisal and not a consultation service.

(i) "Contingent fee" means a fee or other form of compensation, payment of which is dependent on or conditioned by:

(i) the reporting of a predetermined analysis, opinion, or conclusion by the person performing the analysis, opinion, or conclusion; or

(ii) achieving a result specified by the person requesting the analysis, opinion, or conclusion.

(j) "Credential" means a state-issued registration, license, or certification that allows an individual to perform any act or service that requires licensure or certification under this chapter.

(k) "Division" means the Division of Real Estate of the Department of Commerce.

(l) "Executive director" means the executive director of the Department of Commerce.

(m) "Federally related transaction" means a real estate related transaction that is required by federal law or by federal regulation to be supported by an appraisal prepared by:

(i) a state-licensed appraiser; or

(ii) a state-certified appraiser.

(n) "Real estate" means an identified parcel or tract of land including improvements if any.

(o) "Real estate appraisal activity" means the act or process of making an appraisal of real estate or real property and preparing an appraisal report.

(p) "Real estate related transaction" means:

(i) the sale, lease, purchase, investment in, or exchange of real property or an interest in real property, or the financing of such a transaction;

(ii) the refinancing of real property or an interest in real property; or

(iii) the use of real property or an interest in real property as security for a loan or investment, including mortgage-backed securities.

(q) "Real property" means one or more defined interests, benefits, or rights inherent in the ownership of real estate.

(r) "State-certified general appraiser" means a person who holds a current, valid certification as a state-certified general appraiser issued under this chapter.

(s) "State-certified residential appraiser" means a person who holds a current, valid certification as a state-certified residential real estate appraiser issued under this chapter.

(t) "State-licensed appraiser" means a person who holds a current, valid license as a state-licensed appraiser issued under this chapter.

(u) "Trainee" means an individual who:

(i) does not hold an appraiser license or appraiser certification issued under this chapter;

(ii) works under the direct supervision of a state-certified appraiser to earn experience for licensure; and

(iii) is registered as a trainee under this chapter.

(v) "Unbiased analysis, opinion, or conclusion" means an analysis, opinion, or

conclusion relating to the nature, quality, value, or utility of identified real estate or identified real property that is prepared by a person who is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third-party in rendering the analysis, opinion, or conclusion.

(2) (a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Amended by Chapter 350, 2014 General Session

61-2g-103. Other law unaffected.

This chapter may not be considered to prohibit a person licensed, certified, or registered under this chapter from engaging in the practice of real estate appraising as a professional corporation or a limited liability company in accordance with:

(1) Title 16, Chapter 11, Professional Corporation Act; or

(2) Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405.

Amended by Chapter 412, 2013 General Session

61-2g-201. Duties and powers of division in general.

(1) The division shall administer and enforce this chapter.

(2) The division has the following powers and duties:

(a) The division shall:

(i) receive an application for licensing, certification, or registration;

(ii) establish appropriate administrative procedures for the processing of an application for licensure, certification, or registration;

(iii) issue a license or certification to a qualified applicant pursuant to this chapter; and

(iv) register an individual who applies and qualifies for registration as a trainee under this chapter.

(b) The division shall hold public hearings under the direction of the board.

(c) The division may:

(i) solicit bids and enter into contracts with one or more educational testing services or organizations for the preparation of a bank of questions and answers; and

(ii) administer or contract for the administration of licensing and certification examinations as may be required to carry out the division's responsibilities under this chapter.

(d) The division shall provide administrative assistance to the board by providing to the board the facilities, equipment, supplies, and personnel that are required to enable the board to carry out the board's responsibilities under this chapter.

(e) The division shall assist the board in improving the quality of the continuing education available to a person licensed, certified, or registered under this chapter.

(f) The division shall assist the board with respect to the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when an interpretation or explanation becomes necessary in the enforcement of this chapter.

(g) The division may:

(i) promote research and conduct studies relating to the profession of real estate appraising; and

(ii) sponsor real estate appraisal educational activities.

(h) The division shall adopt, with the concurrence of the board, rules for the administration of this chapter pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are not inconsistent with this chapter or the constitution and laws of this state or of the United States.

(i) The division shall employ an appropriate staff to investigate allegations that a person required to be licensed, certified, or registered under this chapter fails to comply with this chapter.

(j) The division may employ other professional, clerical, and technical staff as may be necessary to properly administer the work of the division under this chapter.

(k) (i) Upon request, the division shall make available, either directly or through a third-party, a list of the names and addresses of the persons licensed, registered, or certified by the division under this chapter.

(ii) A person who requests a list under this Subsection (2)(k) shall pay the costs incurred by the division to make the list available.

(3) (a) If the conditions of Subsection (3)(b) are met, the division is immune from any civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act of, or participating in a disciplinary proceeding concerning a person required to be licensed, certified, or registered pursuant to this chapter.

(b) This Subsection (3) applies if the division takes the action:

(i) without malicious intent; and

(ii) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

Amended by Chapter 166, 2012 General Session

61-2g-202. Division service fees -- Federal registry fees.

(1) The division, with the concurrence of the board, shall establish and collect fees in accordance with Section 63J-1-504 for its services under this chapter.

(2) The division shall collect the annual registry fee established by the Federal Financial Institutions Examinations Council from those certificate holders who seek to perform appraisals in federally related transactions. The division shall transmit the fees to the federal Appraisal Subcommittee at least annually.

(3) If a person pays a fee or costs to the division with a negotiable instrument or any other payment method that is not honored:

(a) the transaction for which the payment is submitted is voidable by the division;

(b) the division may reverse the transaction if payment of the applicable fee or costs is not received in full; and

- (c) the person's license, certification, or registration is automatically suspended:
 - (i) beginning the day on which the payment is due; and
 - (ii) ending the day on which payment is made in full.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-203. Division to publish roster of appraisers.

(1) The division shall prepare and issue at least once each calendar year a roster of appraisers containing the information required by the Federal Financial Institutions Examination Council. The division shall transmit the roster to the Federal Financial Institutions Examinations Council at least annually.

(2) The division may, upon payment of a fee established by the division in accordance with Section 63J-1-504, issue to a person a verified history of a person:

- (a) licensed, certified, or registered under this chapter; or
- (b) previously registered, licensed, or certified under this chapter.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-204. Real Estate Appraiser Licensing and Certification Board.

(1) (a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of five regular members as follows:

- (i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;
- (ii) one state-certified residential appraiser;
- (iii) one state-certified general appraiser;
- (iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser; and
- (v) one member of the general public.

(b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.

(c) The governor shall appoint all members of the board with the consent of the Senate.

(2) (a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.

(d) A person may not serve as a member of the board for more than two consecutive terms.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

- (b) The governor may remove a member for cause.
- (4) The public member of the board may not be licensed or certified under this chapter.
- (5) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.
- (6) The members of the board shall elect a chair annually from among the members to preside at board meetings.
- (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (8) (a) Three members of the board shall constitute a quorum for the transaction of business.
- (b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-205. Duties of board.

- (1) (a) The board shall provide technical assistance to the division relating to real estate appraisal standards and real estate appraiser qualifications.
- (b) The board has the powers and duties listed in this section.
- (2) The board shall:
 - (a) determine the experience and education requirements appropriate for a person licensed under this chapter;
 - (b) determine the experience and education requirements appropriate for a person certified under this chapter:
 - (i) in compliance with the minimum requirements of Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and
 - (ii) consistent with the intent of this chapter;
 - (c) determine the appraisal related acts that may be performed by:
 - (i) a trainee on the basis of the trainee's education and experience;
 - (ii) clerical staff; and
 - (iii) a person who:
 - (A) does not hold a license or certification; and
 - (B) assists an appraiser licensed or certified under this chapter in providing appraisal services or consultation services;
 - (d) determine the procedures for a trainee to register and to renew a registration with the division; and
 - (e) develop one or more programs to upgrade and improve the experience, education, and examinations as required under this chapter.
- (3) The experience and education requirements determined by the board for a

person licensed or certified under this chapter shall meet or exceed the minimum criteria established by the Appraisal Qualification Board.

(4) The board shall:

(a) determine the continuing education requirements appropriate for the renewal of a license, certification, or registration issued under this chapter that meet or exceed the minimum criteria established by the Appraisal Qualification Board;

(b) develop one or more programs to upgrade and improve continuing education; and

(c) recommend to the division one or more available continuing education courses that meet the requirements of this chapter.

(5) (a) The board shall consider the proper interpretation or explanation of the Uniform Standards of Professional Appraisal Practice as required by Section 61-2g-403 when:

(i) an interpretation or explanation is necessary in the enforcement of this chapter; and

(ii) the Appraisal Standards Board of the Appraisal Foundation has not issued an interpretation or explanation.

(b) If the conditions of Subsection (5)(a) are met, the board shall recommend to the division the appropriate interpretation or explanation that the division should adopt as a rule under this chapter.

(c) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for an activity engaged in on behalf of a governmental entity.

(6) (a) The board shall conduct an administrative hearing, not delegated by the board to an administrative law judge, in connection with a disciplinary proceeding under Section 61-2g-504 concerning:

(i) a person required to be licensed, certified, or registered under this chapter; and

(ii) the person's failure to comply with this chapter and the Uniform Standards of Professional Appraisal Practice as adopted under Section 61-2g-403.

(b) The board, with the concurrence of the division, shall issue in an administrative hearing a decision that contains findings of fact and conclusions of law.

(c) When a determination is made that a person required to be licensed, certified, or registered under this chapter has violated this chapter, the division shall implement disciplinary action determined through concurrence of the board and the division.

(7) A member of the board is immune from a civil action or criminal prosecution for a disciplinary proceeding concerning a person required to be registered, licensed, certified, or approved as an expert under this chapter if the action is taken without malicious intent and in the reasonable belief that the action taken was taken pursuant to the powers and duties vested in a member of the board under this chapter.

(8) (a) The board shall require and pass upon proof necessary to determine the honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community of an applicant for:

- (i) original licensure, certification, or registration; and
- (ii) renewal licensure, certification, or registration.
- (b) The board may delegate to the division the authority to:
 - (i) review a class or category of applications for an original or renewed license, certification, or registration;
 - (ii) determine whether an applicant meets the qualifications for licensure, certification, or registration;
 - (iii) conduct any necessary hearing on an application for an original or renewed license, certification, or registration; and
 - (iv) approve or deny an application for an original or renewed license, certification, or registration.
- (c) Except as provided in Subsections (8)(d) and (e), and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure, certification, or registration under this chapter may submit a request for agency review to the executive director of the division within 30 days after the day on which the board issues the order denying the applicant's application.
- (d) If the board delegates to the division the authority to approve or deny an application without the concurrence of the board under Subsection (8)(b), and the division denies an application for licensure, certification, or registration, the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the board for a de novo review of the application within 30 days after the day on which the division issues the order denying the applicant's application.
- (e) If the board denies an applicant's application for licensure, certification, or registration after a de novo review under Subsection (8)(d), the applicant may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, petition the executive director for review of the board's denial within 30 days after the day on which the board issues the order denying the applicant's application.

Amended by Chapter 350, 2014 General Session

61-2g-301. License or certification required.

- (1) Except as provided in Subsection (2), it is unlawful for a person to prepare, for valuable consideration, an appraisal, an appraisal report, a certified appraisal report, or perform a consultation service relating to real estate or real property in this state without first being licensed or certified in accordance with this chapter.
- (2) This section does not apply to:
 - (a) a principal broker, associate broker, or sales agent as defined by Section 61-2f-102 licensed by this state who, in the ordinary course of the broker's or sales agent's business, gives an opinion:
 - (i) regarding the value of real estate;
 - (ii) to a potential seller or third-party recommending a listing price of real estate;or
 - (iii) to a potential buyer or third-party recommending a purchase price of real estate;
 - (b) an employee of a company who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property solely for the

company's use;

(c) an official or employee of a government agency while acting solely within the scope of the official's or employee's duties, unless otherwise required by Utah law;

(d) an auditor or accountant who states an opinion of value or prepares a report containing value conclusions relating to real estate or real property while performing an audit;

(e) an individual, except an individual who is required to be licensed or certified under this chapter, who states an opinion about the value of property in which the person has an ownership interest;

(f) an individual who states an opinion of value if no consideration is paid or agreed to be paid for the opinion and no other party is reasonably expected to rely on the individual's appraisal expertise;

(g) an individual, such as a researcher or a secretary, who does not render significant professional assistance, as defined by the board, in arriving at a real estate appraisal analysis, opinion, or conclusion;

(h) an attorney authorized to practice law in any state who, in the course of the attorney's practice or tax appeal services, uses an appraisal report governed by this chapter or who states an opinion of the value of real estate; or

(i) a person who is not an appraiser who presents or provides a price estimate, evidence, or property tax information solely for a property tax appeal in accordance with Section 59-2-1017.

(3) An opinion of value or report containing value conclusions exempt under Subsection (2) may not be referred to as an appraisal.

(4) Except as provided in Subsection (2), to prepare or cause to be prepared in this state an appraisal, an appraisal report, or a certified appraisal report, an individual shall:

(a) apply in writing for licensure or certification as provided in this chapter in the form the division may prescribe; and

(b) become licensed or certified under this chapter.

Amended by Chapter 180, 2013 General Session

61-2g-302. Registration as trainee.

(1) An individual shall register with the division as a trainee before the individual acts in the capacity of a trainee or earns experience for licensure.

(2) Subject to Subsection (2), the board, with the concurrence of the division, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) the trainee registration required under Subsection (1); and

(b) renewal of a trainee registration.

Amended by Chapter 350, 2014 General Session

61-2g-304. Application for licensure, certification, or registration.

(1) An application for the following shall be sent to the division on a form approved by the division:

- (a) original certification, licensure, or registration; and
 - (b) renewal of certification, licensure, or registration.
- (2) The payment of the appropriate fee, as established by the division, with the concurrence of the board, in accordance with Section 63J-1-504, must accompany an application for:
- (a) original certification, licensure, or registration; and
 - (b) renewal of certification, licensure, or registration.
- (3) At the time of filing an application described in Subsection (1), an applicant shall:
- (a) sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice and the ethical rules to be observed by an appraiser that are established under Section 61-2g-403 for:
 - (i) a certified or licensed appraiser; or
 - (ii) a trainee; and
 - (b) certify that the applicant understands the types of misconduct, as set forth in this chapter, for which a disciplinary proceeding may be initiated against a person certified, licensed, or registered under this chapter.

Amended by Chapter 166, 2012 General Session

61-2g-304.5. Background checks.

- (1) An individual applying for licensure, certification, or registration under this chapter shall:
- (a) submit, with the individual's application, a fingerprint card in a form acceptable to the division; and
 - (b) consent to a criminal background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (2) The division shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each applicant through the national criminal history system or any system that succeeds the national criminal history system.
- (3) The applicant shall pay the cost of:
- (a) the fingerprint card described in Subsection (1)(a); and
 - (b) a criminal background check.
- (4) (a) A license, certification, or registration issued under this chapter is conditional pending completion of a criminal background check.
- (b) A license, certification, or registration issued under this chapter is immediately and automatically revoked if a criminal background check reveals that the applicant failed to accurately disclose a criminal history that:
- (i) relates to the appraisal industry; or
 - (ii) includes a felony conviction based on fraud, misrepresentation, or deceit.
- (c) If a criminal background check reveals that an applicant failed to accurately disclose a criminal history other than a type described in Subsection (4)(b), the division shall review the application and, in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

- (i) place one or more conditions on the license, certification, or registration;
- (ii) place one or more restrictions on the license, certification, or registration;
- (iii) revoke the license, certification, or registration; or
- (iv) refer the application to the board for a decision.

(d) An individual whose conditional license, certification, or registration is automatically revoked under Subsection (4)(b) or whose license, certification, or registration is conditioned, restricted, or revoked under Subsection (4)(c) may appeal the action in a hearing conducted by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The board may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

(f) The board, the division, or an administrative law judge may reverse an automatic revocation under Subsection (4)(b) only if:

(i) the criminal history upon which the revocation was based did not occur or is the criminal history of another individual;

(ii) at the time the applicant disclosed the applicant's criminal history, the applicant had a reasonable good faith belief that there was no criminal history to be disclosed; or

(iii) the division failed to follow the prescribed procedure for the revocation.

(5) (a) If an individual's conditional license, certification, or registration is revoked under Subsection (4) and the individual does not appeal the revocation in accordance with Subsection (4)(d), the individual may not apply for a new certification, license, or registration under this chapter for a period of 12 months after the day on which the conditional license, certification, or registration is revoked.

(b) If an individual's conditional license, certification, or registration is revoked, the individual appeals that revocation in accordance with Subsection (4)(d), and the revocation is upheld, the individual may not apply for a new license, certification, or registration under this chapter for a period of 12 months after the day on which the decision from the appeal is issued.

(6) The board may delegate to the division the authority to make a decision on whether relief from a revocation should be granted.

(7) Money an applicant pays for the cost of the criminal background check is nonlapsing.

Enacted by Chapter 350, 2014 General Session

61-2g-305. Expiration of license, certification, or registration.

(1) An initial license, certification, or registration issued under this chapter expires on the expiration date indicated on the license, certificate, or registration.

(2) A renewal license, certification, or registration issued under this chapter expires two years from the date of issuance.

(3) (a) The scheduled expiration date of a license, certification, or registration shall appear on the license, certification, or registration document.

(b) (i) The division shall mail a holder of a license, certification, or registration notice of its expiration to the last address stated on the division's records as the holder's current address.

(ii) To be mailed a notice under this Subsection (3)(b), a holder of a license, certification, or registration shall provide to the division in writing the holder's current address.

(iii) A holder's license, certification, or registration expires if not renewed by the holder notwithstanding whether the holder receives a notice of its expiration by the division under this Subsection (3)(b).

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-306. Renewal of license, certification, or registration.

(1) To renew a license, certification, or registration, before the license, certification, or registration expires, the holder of the license, certification, or registration shall submit to the division in compliance with procedures set through the concurrence of the division and the board:

(a) an application for renewal;

(b) a fee established by the division and the board, in accordance with Section 63J-1-504; and

(c) evidence in the form prescribed by the division of having completed the continuing education requirements for renewal specified in this chapter.

(2) (a) A license, certification, or registration expires if it is not renewed on or before its expiration date.

(b) For a period of 30 days after the expiration date, a license, certification, or registration may be reinstated upon:

(i) payment of a renewal fee and a late fee determined through the concurrence of the division and the board; and

(ii) satisfying the continuing education requirements specified in Section 61-2g-307.

(c) After the 30-day period described in Subsection (2)(b), and until six months after the expiration date, a license, certification, or registration may be reinstated by:

(i) paying a renewal fee and a reinstatement fee determined through the concurrence of the division and the board; and

(ii) satisfying the continuing education requirements specified in Section 61-2g-307.

(d) After the six-month period described in Subsection (2)(c), and until one year after the expiration date, a license, certification, or registration may be reinstated by:

(i) paying a renewal fee and a reinstatement fee determined through the concurrence of the division and the board in accordance with Section 63J-1-504;

(ii) providing proof acceptable to the division, with the concurrence of the board, of the person having satisfied the continuing education requirements of Section 61-2g-307; and

(iii) providing proof acceptable to the division, with the concurrence of the board, of the person completing 24 hours of continuing education:

(A) in addition to the requirements in Section 61-2g-307; and

(B) on a subject determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) The division shall relicense, recertify, or reregister a person who does not

renew that person's license, certification, or registration within one year after the expiration date as prescribed for an original application.

(f) Notwithstanding Subsection (2)(a), the division may extend the term of a license, certification, or registration that would expire under Subsection (2)(a) except for the extension if:

(i) (A) the person complies with the requirements of this section to renew the license, certification, or registration; and

(B) the application for renewal remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending under this chapter a disciplinary action.

(3) A person who is licensed, certified, or registered under this chapter shall notify the division of the following by sending the division a signed statement within 10 business days of:

(a) a conviction of, or the entry of a plea in abeyance to:

(i) a felony; or

(ii) a misdemeanor involving financial services or a financial services-related business, fraud, a false statement or omission, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion;

(b) the potential resolution of a felony or of a misdemeanor described in Subsection (3)(a)(ii) by:

(i) a diversion agreement; or

(ii) any other agreement under which a criminal charge is suspended for a period of time;

(c) the suspension, revocation, surrender, cancellation, or denial of a professional license, certification, or registration of the person, whether the license, certification, or registration is issued by this state or another jurisdiction; or

(d) the entry of a cease and desist order or a temporary or permanent injunction:

(i) against the person by a court or administrative agency; and

(ii) on the basis of:

(A) conduct or a practice involving an act regulated by this chapter; or

(B) conduct involving fraud, misrepresentation, or deceit.

(4) The board, with the concurrence of the division, shall enforce the reporting requirement of Subsection (3) pursuant to Section 61-2g-502.

Amended by Chapter 166, 2012 General Session

61-2g-307. Continuing education requirements.

(1) As a prerequisite to renewal of a license, certification, or registration, the applicant for renewal shall present evidence satisfactory to the division of having met the continuing education requirements of this section.

(2) A person licensed, certified, or registered under this chapter shall complete during the two-year period immediately preceding the filing of an application for renewal not less than 28 classroom hours of instruction in courses or seminars that have received the approval of the division.

(3) (a) The division, with the concurrence of the board, may adopt rules for the implementation of this section to assure that a person renewing that person's license,

certification, or registration under this chapter has a working knowledge of current real estate appraisal theories, practices, and techniques that will enable the person to provide competent real estate appraisal services to the members of the public with whom that person deals in a professional relationship under the authority of that person's license, certificate, or registration.

(b) An amendment or repeal of a rule adopted by the division under this section, with the concurrence of the board, does not operate to deprive a person of credit toward renewal of that person's license, certification, or registration for a course of instruction that is successfully completed by the applicant before the date of the amendment or repeal of the rule.

(c) The rules made under this Subsection (3) shall prescribe:

(i) policies and procedures to be followed in obtaining division approval of courses of instruction and seminars;

(ii) standards, policies, and procedures to be used by the division in evaluating an applicant's claims of equivalency; and

(iii) standards, monitoring methods, and systems for recording attendance to be employed by course and seminar sponsors as a prerequisite to division approval of courses and seminars for credit.

(4) In lieu of meeting the requirements set forth in Subsection (2) and applicable rules, an applicant for renewal may satisfy all or part of the continuing education requirements that are imposed by the board in excess of the minimum requirements of the Appraisal Qualification Board by presenting evidence of the following:

(a) completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board; or

(b) participation other than as a student in educational processes and programs approved by the board that relate to real property appraisal theory, practices, or techniques including teaching, program development, and preparation of textbooks, monographs, articles, and other instructional materials.

(5) A person whose license, certification, or registration is suspended as the result of a disciplinary action taken under this chapter may not apply for reinstatement unless the person presents evidence of completion of the continuing education requirement that is required by this chapter for renewal.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-308. Licensing, certification, or registration requirements for nonresidents -- Temporary license or certificate -- Revocation.

(1) An individual applicant for licensure, certification, or registration under this chapter who is not a resident of this state shall submit with the applicant's application an irrevocable consent that service of process upon the applicant may be made by delivery of the process to the director of the division if, in an action against the applicant in a court of this state arising out of the applicant's activities governed by this chapter in this state, the plaintiff cannot, in the exercise of due diligence, obtain personal service upon the applicant.

(2) A nonresident of this state who complies with Subsection (1) may obtain a

license, a certification, or a registration in this state by complying with this chapter relating to licensure, certification, or registration.

(3) (a) A nonresident of this state who complies with Subsection (1) may obtain a temporary permit for a license or certification to perform a contract relating to the appraisal of real estate or real property in this state.

(b) To qualify for the issuance of a temporary permit for a license or certification, an applicant shall:

(i) submit an application on a form approved by the division;

(ii) submit evidence that the applicant is licensed or certified in the state in which the applicant primarily conducts business;

(iii) certify that no formal charges alleging violation of state appraisal licensing or certification laws have been filed against the applicant by the applicant's state of domicile; and

(iv) pay an application fee in an amount established by the division with the concurrence of the board.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, with the concurrence of the board, shall make rules establishing:

(a) the duration of a temporary permit; and

(b) procedures for renewal of a temporary permit.

(5) A temporary permit issued under this section shall be immediately and automatically revoked if the appraiser's license or certification is suspended or revoked in the appraiser's state of domicile.

(6) A person whose temporary permit for a license or certification is revoked under Subsection (5) is entitled to a postrevocation hearing to challenge the revocation. The hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 166, 2012 General Session

61-2g-309. Denial of licensure, certification, or registration.

The division may, upon compliance with Title 63G, Chapter 4, Administrative Procedures Act, deny the issuance of a license, certification, or registration to an applicant on any of the grounds enumerated in this chapter.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-310. Reciprocal licensure.

(1) An applicant for licensure or certification in this state who is credentialed under the laws of any other state, territory, or district may obtain a reciprocal credential in this state if:

(a) the individual holds a current, valid credential issued by a state that, on the day on which the individual submits an application, is in compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council; and

(b) the credentialing requirements of that state, that are in force on the day on

which the individual submits an application, meet or exceed the credentialing requirements described in this chapter and the rules made under this chapter.

(2) An individual who holds a reciprocal credential described in Subsection (1) shall comply with all statutes and rules that govern the appraisal industry in this state, including requirements relating to:

- (a) the payment of fees; and
- (b) continuing education.

Amended by Chapter 350, 2014 General Session

61-2g-311. State-licensed appraiser -- Authority and qualifications.

(1) A state-licensed appraiser is authorized to appraise complex and noncomplex 1-4 family residential units in this state having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations.

(2) A state-licensed appraiser is authorized to appraise vacant or unimproved land having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations that is utilized for 1-4 family purposes or for which the highest and best use is 1-4 family purposes and subdivisions for which a development analysis/appraisal is not necessary.

(3) A state-licensed appraiser may not issue a certified appraisal report.

(4) To qualify as a state-licensed appraiser, an applicant must:

(a) be of good moral character;

(b) demonstrate honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community;

(c) pass the licensing examination with a satisfactory score as determined by the Appraisal Qualification Board;

(d) successfully complete the educational requirements established by rule in accordance with Subsection (5); and

(e) possess the experience in real property appraisal established by rule in accordance with Subsection (5).

(5) (a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (4)(d); and

(ii) the experience in real property appraisal described in Subsection (4)(e).

(b) The educational and experience requirements established under Subsection (5)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

Amended by Chapter 350, 2014 General Session

61-2g-312. State-certified appraisers -- Authority.

(1) A state-certified residential appraiser:

(a) is authorized to appraise the types of real estate that a state-licensed appraiser is authorized to appraise;

(b) is authorized to appraise 1-4 unit residential real estate without regard to transaction value or complexity; and

(c) is not authorized to appraise subdivisions for which a development analysis/appraisal is necessary.

(2) A state-certified general appraiser is authorized to appraise all types of real estate and real property.

(3) A state-certified appraiser who satisfies all requirements described in this chapter and in rule made under this chapter may supervise trainees as allowed by rule.

Amended by Chapter 350, 2014 General Session

61-2g-313. State-certified residential appraiser -- Authority and qualifications.

(1) An applicant for certification as a residential appraiser shall provide to the division evidence of:

(a) the applicant's good moral character, honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community;

(b) completion of the certification examination with a satisfactory score as determined by the Appraisal Qualification Board;

(c) completion of the educational requirements established by rule in accordance with Subsection (3); and

(d) experience in real property appraisal as established by rule in accordance with Subsection (3).

(2) Upon request by the division, an applicant shall make available to the division for examination:

(a) a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed; and

(b) a sample selected by the division of appraisal reports that the applicant has prepared in the course of the applicant's appraisal practice.

(3) (a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (1)(c); and

(ii) the experience in real property appraisal described in Subsection (1)(d).

(b) The educational and experience requirements established under Subsection (3)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

Amended by Chapter 350, 2014 General Session

61-2g-314. State-certified general appraiser -- Application -- Qualifications.

(1) An applicant for certification as a general appraiser shall provide to the division evidence of:

(a) the applicant's good moral character, honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community;

(b) completion of the certification examination with a satisfactory score as

determined by the Appraisal Qualification Board;

(c) completion of the educational requirements established by rule in accordance with Subsection (3); and

(d) experience in real property appraisal as established by rule in accordance with Subsection (3).

(2) Upon request by the division, an applicant shall make available to the division for examination:

(a) a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed; and

(b) a sample selected by the division of appraisal reports that the applicant has prepared in the course of the applicant's appraisal practice.

(3) (a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (1)(c); and

(ii) the experience in real property appraisal described in Subsection (1)(d).

(b) The educational and experience requirements established under Subsection (3)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

Amended by Chapter 350, 2014 General Session

61-2g-315. Licensing, certification, and registration documents -- Assigned number to be used on contracts -- Surrender of documents upon suspension.

(1) The division shall issue to a person licensed, certified, or registered under this chapter a document:

(a) stating that the person is licensed, certified, or registered under this chapter; and

(b) specifying the expiration date of a license or certification.

(2) (a) A license, a certification, or a registration document issued under this chapter shall bear a license, certification, or registration number assigned by the division.

(b) An assigned number shall be used in a statement of qualification, a contract, or another instrument used by the holder of the license, certificate, or registration when reference is made to the holder's status as being licensed, certified, or registered under this chapter.

(3) (a) A license, certification, or registration document is the property of the state.

(b) Upon a suspension or revocation of a license, certification, or registration under this chapter, the individual holding the applicable document shall immediately return the document to the division.

Amended by Chapter 166, 2012 General Session

61-2g-316. Surrender of license.

(1) The division may, by written agreement, accept the voluntary surrender of a license issued under this chapter.

(2) Tender and acceptance of a voluntary surrender of a license under Subsection (1):

(a) does not prevent the division from pursuing additional action, including disciplinary action, that relates to the surrendered license and is authorized by this chapter or by rules made under this chapter; and

(b) terminates all rights and privileges associated with the license.

(3) A person may restore the rights and privileges described in Subsection (2)(b) only if the person reapplies for, and is granted, licensure in accordance with the requirements described in this chapter.

(4) Any documentation relating to the tender and acceptance of a voluntary surrender is a public record.

Enacted by Chapter 350, 2014 General Session

61-2g-401. State-certified and state-licensed appraisers -- Restrictions on use of terms -- Conduct prohibited or required -- Trainee.

(1) (a) The terms "state-certified general appraiser," "state-certified residential appraiser," and "state-licensed appraiser":

(i) may only be used to refer to an individual who is certified or licensed under this chapter; and

(ii) may not be used following, or immediately in connection with, the name or signature of a firm, partnership, corporation, or group, or in any manner that it might be interpreted as referring to a firm, partnership, corporation, group, or to anyone other than the individual who is certified or licensed under this chapter.

(b) The requirement of this Subsection (1) may not be construed to prevent a state-certified general appraiser from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice if it is clear that:

(i) only the individual is certified; and

(ii) the corporation, partnership, firm, or group practice is not certified.

(c) Except as provided in Section 61-2g-103, a certificate or license may not be issued under this chapter to a corporation, partnership, firm, or group.

(2) (a) A person other than a state-certified general appraiser or state-certified residential appraiser, may not assume or use any title, designation, or abbreviation likely to create the impression of certification in this state as a real estate appraiser.

(b) A person other than a state-licensed appraiser may not assume or use any title, designation, or abbreviation likely to create the impression of licensure in this state as a real estate appraiser.

(3) (a) Only an individual who has qualified under the certification requirements of this chapter is authorized to prepare and sign a certified appraisal report relating to real estate or real property in this state.

(b) If a certified appraisal report is prepared and signed by a state-certified residential appraiser, the certified appraisal report shall state, immediately following the signature on the report, "State-Certified Residential Appraiser."

(c) If a certified appraisal report is prepared and signed by a state-certified

general appraiser, the certified appraisal report shall state, immediately following the signature on the report, "State-Certified General Appraiser."

(d) An appraisal report prepared by a state-licensed appraiser shall state, immediately following the signature on the report, "State-Licensed Appraiser."

(e) When signing a certified appraisal report, a state-certified appraiser shall also place on the report, immediately below the state-certified appraiser's signature the state-certified appraiser's certificate number and its expiration date.

(f) A state-certified residential appraiser may not prepare a certified appraisal report outside the state-certified residential appraiser's authority as defined in Section 61-2g-312.

(g) A state-licensed appraiser who assisted in the preparation of a certified appraisal report is authorized to cosign the certified appraisal report.

(4) A person who has not qualified under this chapter may not describe or refer to any appraisal or appraisal report relating to real estate or real property in this state by the terms "certified appraisal" or "certified appraisal report."

(5) If a trainee assists a state-certified appraiser in the preparation of an appraisal report, the appraisal report shall disclose:

(a) the trainee's name; and

(b) the extent to which the trainee assists in the preparation of the appraisal report.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-402. Principal place of business -- Display of documents -- Notify of changes -- Nonresidents.

(1) A person licensed or certified under this chapter shall:

(a) designate and maintain a principal place of business; and

(b) conspicuously display the person's license or certification.

(2) Upon a change of a person's principal business location or home address, a person licensed or certified under this chapter shall promptly send the division a signed statement notifying the division of the change within 10 business days of the change.

(3) A nonresident licensee or certificate holder is not required to maintain a place of business in this state if the nonresident maintains an active place of business in the nonresident's state of domicile.

Amended by Chapter 166, 2012 General Session

61-2g-403. Professional conduct -- Uniform standards.

(1) (a) A person licensed, certified, or registered under this chapter shall comply with:

(i) generally accepted standards of professional appraisal practice; and

(ii) generally accepted ethical rules to be observed by a real estate appraiser.

(b) Subject to the other provisions of this Subsection (1), generally accepted standards of professional appraisal practice are evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation.

(c) After a public hearing held in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, the board, with the concurrence of the division:

(i) shall adopt and may make modifications of or additions to the Uniform Standards of Professional Appraisal Practice as the board considers appropriate to comply with the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; or

(ii) may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exempt a person licensed, certified, or registered from complying with a provision of the Uniform Standards of Professional Appraisal Practice for an activity that the person engages in on behalf of a governmental entity.

(d) When an individual is a state-licensed appraiser or state-certified appraiser and also holds a license issued under Chapter 2f, Real Estate Licensing and Practices Act, the individual may provide an opinion of price of real estate without complying with the Uniform Standards of Professional Appraisal Practice if the individual provides the opinion of price as a licensee under Chapter 2f, Real Estate Licensing and Practices Act.

(e) A state-licensed or state-certified appraiser who also holds a license issued under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, or Chapter 2f, Real Estate Licensing and Practices Act, may not act under more than one license in a single transaction.

(2) When instructed by the board, the division shall schedule a public hearing pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the purpose of deciding whether or not the board should require a modified or supplemental standard or the ethical rule to be observed by a person licensed, certified, or registered under this chapter if the Appraisal Standards Board of the Appraisal Foundation:

(a) (i) modifies the Uniform Standards of Professional Appraisal Practice;

(ii) issues a supplemental appraisal standard which it considers appropriate for:

(A) a residential real estate appraiser; or

(B) a general real estate appraiser; or

(iii) issues an ethical rule to be observed by a real estate appraiser; and

(b) requests the board to consider the adoption of the modified or supplemental standard or ethical rule.

(3) If, after the notice and public hearing described in Subsection (2), the board finds that a modified or supplemental standard or the ethical rule issued by the Appraisal Standards Board of the Appraisal Foundation is appropriate for a person licensed, certified, or registered under this chapter, the board shall recommend a rule requiring a person licensed, certified, or registered under this chapter to observe the modified or supplemental standard or the ethical rule.

Amended by Chapter 166, 2012 General Session

61-2g-404. Registration, licensure, or certification prerequisite to suit for compensation.

A person engaged in the business of real estate appraising in this state or acting in the capacity of a real estate appraiser in this state may not bring or maintain an action as a plaintiff in a court of this state to collect compensation for the performance of real estate appraisal services for which registration, licensure, or certification is

required by this chapter without alleging and proving that the person was the holder of a valid registration, license, or certification in this state at all times during the performance of the real estate appraisal services.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-405. Recordkeeping requirements.

(1) Subject to Subsection (2), a person licensed or certified under this chapter and a person required to be registered under this chapter before May 3, 2001, shall retain for a period of five years the original or a true copy of:

- (a) each written contract engaging the person's services for real estate or real property appraisal work;
- (b) each appraisal report prepared or signed by the person; and
- (c) the supporting data assembled and formulated by the appraiser in preparing each appraisal report.

(2) The five-year period for retention of records is applicable to each engagement of the services of the appraiser and begins upon the date of the delivery of each appraisal report to the client unless, within the five-year period, the appraiser is notified that the appraisal or the appraisal report is involved in litigation, in which event the records must be maintained for the longer of:

- (a) five years; or
- (b) two years following the date of the final disposition of the litigation.

(3) Upon reasonable notice, a person licensed or certified under this chapter and a person required to be registered under this chapter before May 3, 2001, shall make the records required to be maintained under this chapter available to the division for inspection and copying.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-406. Contingent fees.

(1) A person licensed or certified under this chapter who enters into an agreement to perform an appraisal may not accept a contingent fee.

(2) A person who presents or provides a price estimate or property tax information in accordance with Section 59-2-1017, or a person who is licensed or certified under this chapter who enters into an agreement to provide consultation services, may be paid a fixed fee or a contingent fee.

(3) (a) If a person who presents or provides a price estimate or property tax information in accordance with Section 59-2-1017, or a person who is licensed or certified under this chapter, enters into an agreement to perform consultation services for a contingent fee, this fact shall be clearly stated in each oral statement.

(b) In addition to the requirements of Subsection (3)(a), if a person who presents or provides a price estimate or property tax information in accordance with Section 59-2-1017, or a person who is licensed or certified under this chapter, prepares a written consultation report or summary, letter of transmittal, or certification statement for a contingent fee, the person shall clearly state in the price estimate, property tax information, report, summary, letter of transmittal, or certification statement that the

report is prepared under a contingent fee arrangement.

Amended by Chapter 180, 2013 General Session

61-2g-407. Consultation reports -- Restrictions on use of terms.

A person who presents or provides a price estimate or property tax information in accordance with Section 59-2-1017, or prepares a written or oral consultation report, may not refer to the price estimate, property tax information, or consultation report as an appraisal, an appraisal report, or in any manner that may be interpreted as referring to an appraisal or an appraisal report.

Amended by Chapter 180, 2013 General Session

61-2g-501. Enforcement -- Investigation -- Orders -- Hearings.

- (1) (a) The division may investigate the actions of:
- (i) a person registered, licensed, or certified under this chapter;
 - (ii) an applicant for registration, licensure, or certification;
 - (iii) an applicant for renewal of registration, licensure, or certification; or
 - (iv) a person required to be registered, licensed, or certified under this chapter.
- (b) The division may initiate an agency action against a person described in Subsection (1)(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to:
- (i) impose disciplinary action;
 - (ii) deny issuance to an applicant of:
 - (A) an original registration, license, or certification; or
 - (B) a renewal of a registration, license, or certification; or
 - (iii) issue a cease and desist order as provided in Subsection (3).
- (2) (a) The division may:
- (i) administer an oath or affirmation;
 - (ii) subpoena a witness or evidence;
 - (iii) take evidence; and
 - (iv) require the production of a book, paper, contract, record, document, information, or evidence relevant to the investigation described in Subsection (1).
- (b) The division may serve a subpoena by certified mail.
- (c) A failure to respond to a request by the division in an investigation authorized under this chapter is considered to be a separate violation of this chapter, including:
- (i) failing to respond to a subpoena as a witness;
 - (ii) withholding evidence; or
 - (iii) failing to produce a book, paper, contract, document, information, or record.
- (d) (i) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, information, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, information, or record in a universally readable format.
- (ii) If a person fails to pay the costs described in Subsection (2)(d)(i) when due, the person's license, certification, or registration is automatically suspended:

- (A) beginning the day on which the payment of costs is due; and
 - (B) ending the day on which the costs are paid.
- (3) (a) The director shall issue and serve upon a person an order directing that person to cease and desist from an act if:
- (i) the director has reason to believe that the person has been engaging, is about to engage, or is engaging in the act constituting a violation of this chapter; and
 - (ii) it appears to the director that it would be in the public interest to stop the act.
- (b) Within 10 days after receiving the order, the person upon whom the order is served may request a hearing.
- (c) Pending a hearing requested under Subsection (3)(b), a cease and desist order shall remain in effect.
- (d) If a request for hearing is made, the division shall follow the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
- (4) (a) After a hearing requested under Subsection (3), if the board and division concur that an act of the person violates this chapter, the board, with the concurrence of the division:
- (i) shall issue an order making the cease and desist order permanent; and
 - (ii) may impose another disciplinary action under Section 61-2g-502.
- (b) The director shall commence an action in the name of the Department of Commerce and Division of Real Estate, in the district court in the county in which an act described in Subsection (3) occurs or where the person resides or carries on business, to enjoin and restrain the person from violating this chapter if:
- (i) (A) a hearing is not requested under Subsection (3); and
 - (B) the person fails to cease the act described in Subsection (3); or
 - (ii) after discontinuing the act described in Subsection (3), the person again commences the act.
- (5) A remedy or action provided in this section does not limit, interfere with, or prevent the prosecution of another remedy or action, including a criminal proceeding.
- (6) (a) Except as provided in Subsection (6)(b), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:
- (i) four years after the day on which the violation is reported to the division; or
 - (ii) 10 years after the day on which the violation occurred.
- (b) The division may commence a disciplinary action under this chapter after the time period described in Subsection (6)(a) expires if:
- (i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and
 - (B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or
 - (ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection (6)(a).

Amended by Chapter 350, 2014 General Session

61-2g-502. Disciplinary action -- Grounds.

- (1) (a) The board may order disciplinary action, with the concurrence of the division, against a person:

- (i) registered, licensed, or certified under this chapter; or
- (ii) required to be registered, licensed, or certified under this chapter.
- (b) On the basis of a ground listed in Subsection (2) for disciplinary action, board action may include:
 - (i) revoking, suspending, or placing a person's registration, license, or certification on probation;
 - (ii) denying a person's original registration, license, or certification;
 - (iii) denying a person's renewal license, certification, or registration;
 - (iv) in the case of denial or revocation of a registration, license, or certification, setting a waiting period for an applicant to apply for a registration, license, or certification under this chapter;
 - (v) ordering remedial education;
 - (vi) imposing a civil penalty upon a person not to exceed the greater of:
 - (A) \$5,000 for each violation; or
 - (B) the amount of any gain or economic benefit from a violation;
 - (vii) issuing a cease and desist order;
 - (viii) modifying an action described in Subsections (1)(b)(i) through (vii) if the board, with the concurrence of the division, finds that the person complies with court ordered restitution; or
 - (ix) doing any combination of Subsections (1)(b)(i) through (viii).
- (c) (i) If the board or division issues an order that orders a fine or educational requirements as part of the disciplinary action against a person, including a stipulation and order, the board or division shall state in the order the deadline by which the person shall comply with the fine or educational requirements.
 - (ii) If a person fails to comply with a stated deadline:
 - (A) the person's license, certificate, or registration is automatically suspended:
 - (I) beginning on the day specified in the order as the deadline for compliance; and
 - (II) ending the day on which the person complies in full with the order; and
 - (B) if the person fails to pay a fine required by an order, the division may begin a collection process:
 - (I) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.
- (2) The following are grounds for disciplinary action under this section:
 - (a) procuring or attempting to procure a registration, license, or certification under this chapter:
 - (i) by fraud; or
 - (ii) by making a false statement, submitting false information, or making a material misrepresentation in an application filed with the division;
 - (b) paying money or attempting to pay money other than a fee provided for by this chapter to a member or employee of the division to procure a registration, license, or certification under this chapter;
 - (c) an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud, or misrepresentation;
 - (d) entry of a judgment against a registrant, licensee, or certificate holder on

grounds of fraud, misrepresentation, or deceit in the making of an appraisal of real estate;

(e) a guilty plea to a criminal offense involving moral turpitude that is held in abeyance, or a conviction, including a conviction based upon a plea of guilty or nolo contendere, of a criminal offense involving moral turpitude;

(f) engaging in the business of real estate appraising under an assumed or fictitious name not properly registered in this state;

(g) paying a finder's fee or a referral fee to a person not licensed or certified under this chapter in connection with an appraisal of real estate or real property in this state;

(h) making a false or misleading statement in:

(i) that portion of a written appraisal report that deals with professional qualifications; or

(ii) testimony concerning professional qualifications;

(i) violating or disregarding:

(i) this chapter;

(ii) an order of:

(A) the board; or

(B) the division, in a case when the board delegates to the division the authority to make a decision on behalf of the board; or

(iii) a rule issued under this chapter;

(j) violating the confidential nature of governmental records to which a person registered, licensed, or certified under this chapter gained access through employment or engagement as an appraiser by a governmental agency;

(k) accepting a contingent fee for performing an appraisal if in fact the fee is or was contingent upon:

(i) the appraiser reporting a predetermined analysis, opinion, or conclusion;

(ii) the analysis, opinion, conclusion, or valuation reached; or

(iii) the consequences resulting from the appraisal assignment;

(l) unprofessional conduct as defined by statute or rule;

(m) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2); or

(n) other conduct that constitutes dishonest dealing.

Amended by Chapter 166, 2012 General Session

Amended by Chapter 369, 2012 General Session

61-2g-503. Reinstatement of license, certification, and registration.

(1) An individual whose license, certification, or registration is revoked under this chapter:

(a) may not apply for renewal or reinstatement of that license, certification, or registration; and

(b) may apply for licensure, certification, or registration as prescribed for an

original license, certification, or registration subject to the limitations in Subsection (2).

(2) An applicant for licensure, certification, or registration under Subsection (1) is not entitled to credit for experience gained before the date of revocation in determining whether the applicant meets the experience requirement for licensure, certification, or registration.

Amended by Chapter 166, 2012 General Session

61-2g-504. Disciplinary hearing process.

(1) The division and board shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in conducting any disciplinary proceedings under this chapter.

(2) Before disciplinary action may be taken under this chapter, the division shall:

(a) notify the person against whom disciplinary action is sought; and

(b) commence an adjudicative proceeding.

(3) If, after the hearing, the board determines, with the concurrence of the division, that a person described in Subsection (2) violated this chapter, the board may impose disciplinary action, with the concurrence of the division, by written order as provided in Section 61-2g-502.

(4) (a) The board may:

(i) conduct hearings with the assistance of an administrative law judge; or

(ii) delegate hearings to an administrative law judge.

(b) If a hearing is delegated by the board to an administrative law judge, the administrative law judge shall submit to the board and the director for their consideration:

(i) written findings of fact;

(ii) written conclusions of law; and

(iii) a recommended order.

(5) (a) An applicant, licensee, certificate holder, registrant, or person aggrieved, including the complainant, may obtain judicial review of an adverse ruling, order, or decision.

(b) If an applicant, licensee, certificate holder, or registrant prevails in an appeal and the court finds that the state action is undertaken without substantial justification, the court may award reasonable litigation expenses to the applicant, licensee, certificate holder, or registrant as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

Renumbered and Amended by Chapter 289, 2011 General Session

61-2g-505. Penalty for violating this chapter -- Automatic revocation.

(1) In addition to being subject to a disciplinary action, a person required to be licensed, certified, or registered under this chapter who violates this chapter:

(a) is guilty of a class A misdemeanor, upon a conviction of a first violation of this chapter; and

(b) is guilty of a third degree felony, upon conviction of a second or subsequent violation of this chapter.

(2) A license, certification, or registration issued by the division to a person

convicted of a violation of Section 76-6-1203 is automatically revoked.

Renumbered and Amended by Chapter 289, 2011 General Session